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Chairman: Mr. Simon (Vice-Chairman) ..... (Hungary)

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The meeting was called to order at 3.10 p.m.

Agenda item 148: Measures to eliminate international terrorism (*continued*) (A/59/37, A/59/210, A/59/83-S/2004/387, A/59/124-S/2004/532, A/59/337-S/2004/721, A/59/368-S/2004/747, A/59/380-S/2004/757, A/59/383-S/2004/758, A/59/371 and A/C.6/59/L.10)

1. **Mr. Al Shubaili** (Saudi Arabia) said that the worrying upsurge of terrorism affected all countries and societies without distinction and that international cooperation must be stepped up in order to deal with that scourge and its paymasters. His country condemned all forms of terrorism, gave its full backing to the international community's efforts to eradicate that plague, and completely endorsed the Security Council's resolutions on the subject.

2. His Government had adopted measures to prevent the use for terrorist purposes of funds collected by charities; they included the setting up of a regulatory body to supervise all such associations. His country had been one of the first to sign the Arab Convention for the Suppression of Terrorism, the Convention on Combating International Terrorism of the Organization of the Islamic Conference and the Convention recently adopted by the Gulf Cooperation Council, and it had acceded to several international treaties and conventions against terrorism. The measures taken by the authorities in Riyadh at the national, regional and international levels had begun to bear fruit.

3. A whole society or culture must not be condemned for crimes committed by a gang of criminals. The struggle against the dangerous international scourge of terrorism was a collective duty. In that connection, his Government was preparing to host in Riyadh, on 5 February 2005, an international conference on terrorism, whose six main themes would be: the roots of terrorism, terrorist culture and ideas, links between terrorism and drugs, lessons to be learned from countries' experiences in their battle against that evil, links between terrorism and money-laundering and, lastly, terrorist organizations.

4. His Government asked the international community to intervene in order to end the genocide against the Palestinians and the spiral of violent State terrorism in Gaza. Two little girls had died in an attack on a school run by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), and he echoed the words of the Commissioner-General of UNRWA, Mr. Hansen, who had denounced the daily violation of children's right to life in the occupied territories.

5. **Mr. Ajonye** (Nigeria) said that his Government unequivocally condemned acts of terrorism in all their forms and manifestations, and remained committed to all efforts to eliminate that menace to national, regional and international peace and security. The recent tragedy in Beslan had attested to the fact that terrorism was no respecter of any life, religion or frontier. He was pleased that the efforts to gather and exchange information on the counter-terrorist activities of Governments and other actors had started to yield results: some 20 States, five entities of the United Nations system and two intergovernmental organizations had filed reports with the relevant United Nations committees. The team of experts appointed to monitor compliance with Security Council resolution 1267 (1999) had visited a number of countries in sub-Saharan Africa to gather and exchange information and to benefit from each country's experiences.

6. Nigeria also appreciated the workshops and training courses organized by various United Nations bodies and other organizations, including the International Civil Aviation Organization (ICAO), the International Maritime Organization (IMO) and the International Atomic Energy Agency (IAEA). ICAO had already produced eight aviation security training packages which were being sold and distributed in the international civil aviation community. His Government greatly hoped that the Governments of developing countries and the relevant civil society organizations would have unfettered access to those training materials. He welcomed ongoing efforts to publish the second volume of the United Nations Legislative Series containing a compilation of national laws and regulations on the prevention and suppression of international terrorism in all its forms and manifestations.

7. His delegation still held that a comprehensive convention on combating international terrorism, including nuclear terrorism, was a necessary instrument to protect the individual and collective right to life. It was therefore concerned by the lack of consensus on articles 18 and 2 bis of the draft comprehensive convention on international terrorism and on article 4 of the draft international convention for the suppression of acts of nuclear terrorism, for the

disagreements which were delaying the completion of those two instruments might be interpreted by the perpetrators of terrorist acts as a sign of general indecision. His delegation, therefore, called on Member States to demonstrate greater flexibility and a firm political will to finalize those instruments.

8. His Government had taken major steps to combat terrorism by implementing the necessary instruments to freeze without delay funds and other financial assets or economic resources of persons who committed or attempted to commit terrorist acts, or who tried to participate in or facilitate the commission of terrorist acts, and of companies owned or controlled directly or indirectly by such persons. It had also introduced measures to monitor and prevent money-laundering. In the same vein, it would continue to deny safe haven to those who financed, planned, supported or committed terrorist acts.

9. No matter how unjustifiable terrorist acts were, the international community must deal with the root causes of the evil. The escalation of terrorism in different regions of the world had been ascribed, among other things, to intolerance or extremism, deep-seated bitterness and the crazed blood-thirstiness of the perpetrators. There was also a common belief that it was necessary to tackle the root causes and to wrestle with some underlying problems, such as the lack of good governance, poverty, economic dominance, religious intolerance, the incomplete implementation of disarmament measures, the proliferation of small arms and light weapons, and illegal arms trafficking across national borders.

10. **Mr. Navoti** (Fiji) welcomed the fact that the General Assembly and the Security Council were acting in unison to address the threat of terrorism. His Government noted with satisfaction the adoption of Security Council resolution 1566 (2004) and in particular the setting up of a working group to consider and submit recommendations to the Council on practical measures to be imposed upon those involved in or associated with terrorist activities, other than those designated by the Al-Qaida/Taliban sanctions committee. Fiji also supported the establishment of an international fund to compensate victims of terrorist acts as envisaged in the said resolution.

11. His delegation commended the work of the Ad Hoc Committee on the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism. While the lack of consensus on some articles of the two texts was regrettable, it had to be acknowledged that the outstanding issues were complex and had political dimensions. The adoption of both conventions by the General Assembly would reaffirm the primacy of the rule of law in international relations and ensure respect for human dignity and human rights.

12. His delegation, like others, also considered that it was very important to address the grievances caused by despair, resentment, ignorance and poverty. To eliminate the root causes of terrorism, the international community must ensure that international relations were based on sovereign equality, multilateralism, justice and sustainable development.

13. **Mr. Dhakal** (Nepal) said that terrorism seriously threatened international peace and security, impeded the economic and social development of all States and jeopardized prosperity, stability and order. The brutal killing of 12 Nepalese who had gone to Iraq simply to earn a living had shocked the conscience of humanity. Concerted national and international action was therefore required to preserve the foundations of peace, justice and democracy.

14. His Government condemned terrorist acts in all their forms and manifestations as crimes for which there was never any justification. It was determined to combat terrorism at the national level and to work with other States at the regional and international levels to that end. His country had suffered grievously in recent years from the terrorist acts of self-proclaimed Maoist groups. It therefore supported the work of the Security Council's Counter-Terrorism Committee and its Executive Directorate recently established to monitor the implementation of Council resolution 1373 (2001). It also backed the work of the Al-Qaida/Taliban sanctions committee established pursuant to Council resolution 1267 (1999). His Government had adopted the necessary measures to give effect to those resolutions and had so informed the respective committees.

15. The 1994 Declaration on Measures to Eliminate International Terrorism had led to the establishment of the Ad Hoc Committee under General Assembly resolution 51/210. His delegation supported the work of that Committee and appreciated the efforts that had been made by its Chairman and two coordinators to

resolve outstanding issues related to the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism. The comprehensive convention would complement the 12 existing sectoral anti-terrorist conventions.

16. The Security Council's adoption of resolution 1566 (2004) had lent fresh impetus to the battle against terrorism in emergency situations. That resolution might help delegations to answer questions relating to the definition of terrorism and the comprehensive convention's scope.

17. It was encouraging that Member States seemed to have redoubled their efforts to find an acceptable solution to the outstanding issues raised by articles 2, 2 bis and 18 of the draft comprehensive convention. His Government urged them to demonstrate the political will and determination needed for the Ad Hoc Committee to complete its work rapidly. In that connection, it supported the convening of a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations.

18. Regional cooperation complemented global action to counter-terrorism. His Government was a party to the Regional Convention on Suppression of Terrorism of the South Asian Association for Regional Cooperation (SAARC), to which six other members of the Association were also parties. The Association's twelfth summit had adopted an Additional Protocol to the Regional Convention in January 2004. Those regional instruments would facilitate the implementation of Security Council resolution 1373 (2001) in the Association's member States.

19. **Mr. Abebe** (Ethiopia) said that his Government unequivocally condemned all terrorist acts, regardless of their motivation, form or manifestation; the United Nations must continue to play a central role in fighting that global menace in accordance with the principles and purposes of the Charter and the norms of international law, including human rights law. As a State party to 7 of the 12 counter-terrorism conventions, Ethiopia would continue to play its part fully in combating international terrorism and to faithfully implement the provisions of those conventions and of the Security Council resolutions, including resolution 1373 (2001). At the regional level, it would continue to participate in establishing legal standards and institutions to fight terrorism within the framework of the African Union (AU) and the Inter-Governmental Authority on Development (IGAD).

20. The ongoing negotiations on the two draft conventions before the Committee could provide a wider legal basis for a more effective global response to terrorism. Ethiopia supported an early adoption of the two draft conventions and believed that considering them separately would speed up their finalization. It called on all parties concerned to show greater political will and flexibility to overcome the deadlock which the Committee had been in for the past two years on three remaining articles of the draft conventions. In that regard, Ethiopia supported the spirit and the letter of Security Council resolution 1566 (2004) calling on the Committee to adopt both draft conventions by consensus, and also supported the continuation of the work of the ad hoc committee within the framework of the Working Group of the Sixth Committee towards that end.

21. **Mr. Mezeme-Mba** (Gabon) said that his delegation categorically condemned terrorism and called on Member States to reach speedy agreement on the two draft conventions under consideration. He welcomed the action taken by the Security Council to combat terrorism, particularly the work done by the Counter-Terrorism Committee and the recent adoption of resolution 1566 (2004), which set out new measures for strengthening counter-terrorism.

22. He underscored the importance of regional and subregional cooperation in that area, welcoming in particular the initiatives taken by the African Union, which had come out with an important statement on the subject at its meeting in Algiers and which had recently set up the African Centre for the Study and Research on Terrorism. The Central African Economic and Monetary Community (CEMAC), which had recently set up the Action Group against Money-Laundering in Central Africa (GABAC), was playing an important role in combating the financing of terrorism. On 4 April 2003, GABAC had adopted a regulation for deterring and suppressing money-laundering and the financing of terrorism in Central Africa, which served as an institutional and legal framework for countries in that subregion. Also, on 27 May 2004, CEMAC member States had decided to create a specialized training centre for criminal investigation and had concluded an agreement on fighting terrorism in

Central Africa. Those initiatives were encouraging and should lead to positive outcomes.

23. **Ms. Matekane** (Lesotho) said that, in the light of the continual emergence of acts of terror worldwide, the international community should deepen its commitment and intensify its efforts to combat terrorism. Oftentimes, it could only watch helplessly as atrocities were committed. Most acts of terror, if not all, were committed in the cause of legitimate grievances, perceivable or otherwise. No one could dispute the frustrations and despair engendered by foreign occupation and domination, by dictatorship and racist regimes, but neither could anyone deny the anguish and guilt felt at the summary executions of innocents. For those reasons, particular attention should be focused on those grievances and on their origin.

24. Among the adversities that had befallen Africa, such as extreme poverty and disease which threatened the existence of some populations, including in Lesotho, those terrorist acts imposed a greater and unnecessary burden. Without being a panacea, a comprehensive international legal framework would seal the existing gaps in international law and become a coordination tool. It was imperative, therefore, to make progress in the formulation of the conventions relating to terrorism. In that regard, Lesotho welcomed the adoption by the Security Council of resolution 1566 (2004) which would impart momentum to the work of the Sixth Committee.

25. A more sincere and consistent global response to terrorist acts was required. States continued to hold conflicting perspectives regarding terrorist acts, and self-serving political interests seriously impeded the formulation of a universal guarantee against terrorism, while also serving to validate the deeds of the culprits. Her Government had always stood firmly against the harbouring of terrorists and the financing of terrorist operations. It was developing a comprehensive policy and legislation to address the financing of terrorism within the context of its draft money-laundering and proceeds of crime bill. Lesotho also encouraged the convening of an international conference on terrorism under the auspices of the United Nations.

26. **Mr. Ri** (Democratic People's Republic of Korea) said that while counter-terrorism should serve to safeguard the sovereignty of States and their right to development, ensure a free and safe life for people and promote global peace and stability, it should not be misused for unilateral political purposes. The current counter-terrorism policy — unilateral, exclusive and unjustifiable — had brought about the vicious cycle of terrorism. The rampancy of terrorism all over the world had resulted from an inhumane foreign policy which oppressed other nations, violated State sovereignty and created social inequality.

27. Elimination of the root causes of terrorism required the establishment of international relations based on the sovereign equality of States, multilateralism and justice, the eradication of exploitation, oppression and social inequality and the promotion of human-centred sustainable development. Unless the unilateral and high-handed acts newly emerging in international relations were eliminated, the establishment of international relations based on sovereign equality could never be realized, nor could the escalation of terrorism be prevented; indeed, the recurrence of bloodshed, as was happening currently in Iraq, would be inescapable.

28. No Member State should tolerate the imposition of unilateral sanctions and the use of armed force against sovereign States behind the screen of counter-terrorism. The Democratic People's Republic of Korea had always opposed terrorism in all its forms and manifestations. It had taken a number of legislative and administrative measures to combat international terrorism and was cooperating actively with the United Nations in that endeavour by submitting regular reports that detailed its counter-terrorism activities.

29. **Mr. Dolatyar** (Islamic Republic of Iran) said that his country had played an active role in combating terrorism. Because of the insecurity in the region resulting from the increase in terrorist activities, Iran had taken several measures to enhance security in its border areas by tightening border and visa controls, deporting thousands of illegal aliens, and arresting and extraditing hundreds of suspects, particularly members of Al-Qaida. Nevertheless, under the protection of certain Powers, terrorist groups continued to operate in several neighbouring countries, and his Government was of the view that the war on terror should be comprehensive and non-selective.

30. The counter-terrorism effort required a global strategy, one based on cooperation under the provisions of the Charter of the United Nations and the principles of international law, including the third Geneva

Convention. Dropping bombs into heavily populated areas, for example, could only create fresh cycles of violence. Iran shared the view of the Secretary-General that in joining forces against terrorism, it was imperative that freedom, human rights and the rule of law be upheld and protected. The terrorism of non-State actors and the unilateral force by certain States were two sides of a common problem which were mutually reinforcing and which contributed to global insecurity and lawlessness. For that reason, the international community must scrupulously comply with the principles of international humanitarian law and human rights.

31. The United Nations had an essential role to play in codifying a set of rules that would enable Member States to fight terrorism effectively. While the General Assembly had already adopted several counter-terrorism instruments, other organs, such as the Security Council, had a tendency to encroach on its powers and mandate. Although a step towards the strengthening of counter-terrorism measures, Council resolution 1566 (2004) was, in his view, a case in point. It was clear that the Council's approach to curbing terrorism had failed to attain its substantive goals, and for that reason the General Assembly should adopt a collective and inclusive approach based on cooperation among all Member States with a view to adopting effective measures. It was to be hoped that consensus would speedily emerge on the two draft conventions on terrorism. Iran, along with other members of the Organization of the Islamic Conference (OIC), would cooperate proactively to ensure the speedy adoption of those two important documents.

32. **Mr. Chaabani** (Tunisia) reiterated his delegation's strong condemnation of terrorist acts, methods and practices in all their forms and manifestations at a time when the world had seen an alarming resurgence of international terrorism. In his message to the General Assembly during the current session, the President of Tunisia, Mr. Ben Ali, had emphasized that the increasing danger of terrorism required greater international coordination against the terrorist scourge in order to ward off its dangers by addressing its root causes, finding just solutions to a number of outstanding international problems and curbing poverty, exclusion and marginalization throughout the world.

33. Owing to its universality, the United Nations provided the appropriate setting for a global approach to combating terrorism. In particular, the General Assembly and the Security Council should coordinate their activities, in accordance with their respective mandates, in order to avoid duplication. When it had been a member of the Council, Tunisia had participated actively in the drafting of Security Council resolution 1373 (2001) establishing the Counter-Terrorism Committee and, in accordance with the requirements imposed by the resolution, had submitted several reports in which it described the measures taken to combat terrorism, whether through bilateral agreements, through its accession to all the relevant international and regional treaties or through its ever closer cooperation with other States on legal and security matters. The reports had also contained information about Tunisia's adoption of a law concerning the establishment of appropriate mechanisms and structures to ensure the monitoring and suppression of the financing of terrorism.

34. It was regrettable to note that most of the obligations under Security Council resolution 1373 (2001) were not fully honoured by some of the States concerned. The recent adoption of Security Council resolution 1566 (2004), however, offered some hope in that regard. Despite a number of important new developments, there were still some loopholes in international law that terrorists could exploit and that should be closed as soon as possible. His delegation therefore continued to believe that a comprehensive convention on international terrorism, covering every aspect of the problem, would be useful. The remaining points at issue in the draft comprehensive convention for the suppression of acts of nuclear terrorism should also be settled so that it could be adopted by consensus.

35. It was to be hoped that States would have the political will to cooperate more closely in developing international instruments that would complement the existing body of law, taking into account the concerns of all parties, especially those repeatedly voiced by the Organization of the Islamic Conference.

Agenda item 149: Scope of legal protection under the Convention on the Safety of United Nations and Associated Personnel (A/59/52 and 226; A/C.6/59/L.9)

36. **Mr. Wenaweser** (Chairman of the Ad Hoc Committee and of the Working Group on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel) introduced

the Ad Hoc Committee's report (A/59/52) and the Working Group's report (A/C.6/59/L.9). The Ad Hoc Committee, focusing its attention on the expansion of the scope of legal protection under the Convention, had considered the proposal submitted by New Zealand to extend the scope of protection under the Convention to a range of operations in which the United Nations was engaged and to eliminate the requirement of a declaration of exceptional risk. The Committee had then considered a proposal by Costa Rica on the relationship between the 1994 Convention and international humanitarian law. Some delegations had expressed a preference for the elaboration of an optional protocol that would preserve the integrity of the Convention, while others had favoured the preparation of a stand-alone protocol or else a revision of the Convention. The Committee had continued its discussion on the definition of a United Nations operation, including the question of including the concept of risk. For some delegations, the most appropriate way of maintaining the element of risk was to base the definition on the purpose of the operation, whereas others had feared that such a definition did not sufficiently cover the element of risk. The Committee had also discussed the question of the respective responsibilities of host States and United Nations personnel. Lastly, it had considered the relationship between the protective regime of the Convention and the protection provided by international humanitarian law. The Committee had recommended that the General Assembly should renew its mandate for 2005.

37. The Working Group had considered articles II, III, IV and V of the text submitted by himself as Chairman and also the Costa Rican proposal. It had recommended that the Ad Hoc Committee should be reconvened with a mandate to expand the scope of legal protection of United Nations and associated personnel. It had also recommended that the Ad Hoc Committee should base its work on the Chairman's text and should consider the proposal by Costa Rica separately.

38. He had been encouraged by the constructive spirit prevailing during the Working Group's discussions, since he believed that Member States would need to show political will in order to reconcile remaining differences of opinion and reach agreement on the proposals. He urged all delegations to redouble their efforts to finalize the work on the draft protocol, given the urgency of the question. Practical measures should be adopted with all speed to enhance the security of United Nations personnel, who continued to be targeted in many parts of the world. However, Member States, too, had an obligation to provide adequate legal protection and to remedy the defects in the current protection system.

39. **Mr. Lauber** (Switzerland) said that his delegation strongly condemned all acts of violence directed against United Nations and associated personnel. It hoped that measures would be taken to establish a legal protection system that would have the maximum deterrent effect. Switzerland provided personnel for United Nations operations and his delegation was therefore grateful to the Chairman of the Sixth Committee Working Group for the draft text that he had submitted as the basis for an optional protocol that could be prepared in 2005. He also welcomed the consensus that had emerged on the need to expand the scope of legal protection currently available under the Convention on the Safety of United Nations and Associated Personnel, going beyond the requirement of a declaration of exceptional risk and setting up a clearer and more objective protection system.

40. **Mr. Peersman** (Netherlands), speaking on behalf of the European Union, the candidate countries Bulgaria, Croatia and Romania, the stabilization and association process countries Albania, Bosnia and Herzegovina, Serbia and Montenegro and the former Yugoslav Republic of Macedonia and the European Free Trade Agreement country, Iceland, member of the European Economic Area, welcomed the progress made by the Working Group on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel. The revised proposal submitted by New Zealand was particularly commendable.

41. The European Union continued to support the preparation of an additional protocol to the Convention that would extend the scope of its legal protection to certain United Nations operations other than peacekeeping operations without the need for a declaration of exceptional risk. The Union approved the text proposed by the Chairman of the Working Group and believed, with reference to article 3 of the text, that the broadest possible legal protection could be provided without detriment to the sovereign rights of States.

42. **Mr. Al-Shebli** (Kuwait) said that his country was deeply concerned at the attacks on United Nations personnel performing their assigned duties; he condemned one of the worst such attempts to date, namely, that carried out against the United Nations Office in Baghdad on 19 August 2003.

43. Kuwait had hosted the United Nations Iraq-Kuwait Observation Mission (UNIKOM) for more than 10 years and was therefore aware of the importance of a United Nations personnel presence on the ground. In addition to having acceded, on 18 August 2004, to the 1994 Convention on the Safety of United Nations and Associated Personnel, Kuwait had, on 30 September 2004, concluded an agreement with the United Nations on the establishment in its territory of the Office of the United Nations Assistance Mission for Iraq (UNAMI) and planned to provide the Mission with every facility required for its work.

44. Kuwait supported the adoption of a protocol to the 1994 Convention that would broaden the scope of its application and enhance the protection of United Nations and associated personnel without a review of the Convention. The protocol would define specifically, the operations covered by the Convention and the categories of personnel to be accorded legal protection. Kuwait hoped that a formulation accepted by all would be found with a view to guaranteeing the universality of the Convention.

45. **Mr. Eriksen** (Norway) commended United Nations and associated personnel, who risked their lives assisting people in conflict situations, but who were increasingly being attacked by belligerents. In 1995 Norway had ratified the Convention, which provided an effective framework for legal protection, and it was his hope that a larger number of countries would accede to the Convention.

46. His delegation was of the view that the establishment of the International Criminal Court would help to put an end to impunity for perpetrators of very serious crimes which shocked the conscience of humanity and he welcomed, in particular, the fact that article 8 of the Rome Statute considered serious infringements of the Geneva Convention as war crimes. He urged States that were not yet parties to the Rome Statute to consider ratifying or acceding to it without delay.

47. The international community needed to take stronger action to ensure that any act of violence committed against humanitarian personnel was investigated and that the perpetrators were brought to justice. For that reason, he felt encouraged by the increasing incorporation of the key provisions of the Convention into status-of-forces or mission agreements. The Norwegian delegation agreed with the Secretary-General that the requirement of a declaration of exceptional risk remained the main limitation to the protective regime under the Convention. The failure to issue a declaration of exceptional risk for the United Nations operation in Afghanistan, despite the recommendation to the General Assembly to that effect, showed that the current regime was not working as intended. The additional protocol whose drafting was proposed should, therefore, dispense with such a requirement. In that regard, the draft text submitted by the Chairman of the Working Group provided a constructive basis for continued discussions and should make it possible to broaden the scope of legal protection under the Convention. It was to be hoped that the General Assembly would soon reach consensus on the matter, given the importance of protecting United Nations and associated personnel, who were operating under very difficult circumstances.

48. **Mr. Barriga** (Liechtenstein) recalling the attack on the United Nations Office in Baghdad, condemned all acts of violence against United Nations local and international personnel, and said that the time had come to put an end to impunity for the perpetrators of such acts, which were rightly treated as war crimes by the Rome Statute of the International Criminal Court. Liechtenstein was convinced that broadening the scope of the Convention on the Safety of United Nations and Associated Personnel through an additional optional protocol would enhance the existing legal protection regime. His delegation supported the draft text proposed by the Chairman of the Working Group, which broadened the scope of legal protection without requiring a declaration of exceptional risk, for two reasons. First, the proposal would not impose inappropriate obligations of protection on host States, which could still exercise their national jurisdiction against law-breaking United Nations personnel. Lastly, the draft offered an array of measures to fight impunity for those who carried out attacks on United Nations personnel.

49. **Mr. Romero** (Brazil), speaking on behalf of the States members of the Rio Group (Argentina, Bolivia, Brazil, Chile, Costa Rica, Dominican Republic,

Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela), said that the attacks on United Nations personnel in Baghdad and elsewhere made it more urgent than ever before to seek ways of improving their protection. On the one hand, legal protection needed to be improved through the adoption and application of international instruments; on the other hand, infrastructure and safety measures at Headquarters and in the field would have to be enhanced. The Rio Group therefore welcomed the measures adopted to enforce General Assembly resolution 58/82 and, in particular, the increasing incorporation of fundamental provisions of the Convention into status-of-forces and status-of-mission agreements.

50. The States members of the Rio Group called on all States that had not yet done so to ratify the Convention so that it would become a universal instrument. Admittedly, however, a protocol would need to be developed to broaden its scope of application to all United Nations operations and eliminate the requirement of the declaration of exceptional risk. It was to be hoped that Member States would reach consensus on the basis of the draft text proposed by the Chairman of the Working Group, which would be a good starting point for deliberations.

51. **Mr. Elmessallati** (Libyan Arab Jamahiriya) said that his delegation was extremely concerned at the intensified risk facing United Nations personnel. The very nature of the Organization's mission demanded that its personnel should be accorded the broadest possible protection and that both the United Nations and the international community as a whole must make extra efforts to that end.

52. Since all United Nations operations involved a degree of risk, the Libyan delegation deemed it preferable to maintain the distinction between "exceptional risk" and normal "risk" as specified in the 1994 Convention, and supported the proposals along those lines. Regarding the respective responsibilities of host countries and United Nations personnel, it would be advisable to develop a balanced formulation that did not negate the obligations arising from the 1946 Convention on the Privileges and Immunities of the United Nations.

53. While it was generally agreed that the protection of United Nations personnel should be enhanced, there was no apparent consensus on how to proceed. Revision of the 1994 Convention to broaden its scope of application fell into the procedural framework of article 40 of the Vienna Convention on the Law of Treaties, but was not compatible with current or future United Nations operations, nor did it take into account the urgency of enhancing staff protection. It would therefore be preferable to envisage the drafting of an additional protocol. His delegation looked forward to the achievement of consensus on the notions and definitions submitted by various delegations to determine how United Nations and associated personnel might be afforded the most effective legal protection possible.

54. **Mr. Tajima** (Japan) welcomed the fact that the Working Group had agreed to use its Chairman's text as the basis for its work. While it was understood that the text would not limit the right of delegations to propose amendments thereto, it was a positive development that the Working Group had held a lively and very substantive discussion on expansion of the scope of legal protection under the 1994 Convention on the Safety of United Nations and Associated Personnel, and on the revised text of a proposal submitted by Costa Rica concerning the relationship between the Convention and international humanitarian law.

55. Regarding article II, paragraph 1, of the Chairman's text contained in annex I to the report of the Working Group (A/C.6/59/WG.2/CRP.1), Japan was of the view that an appropriate definition of the scope of application, presented with clarity and taking into account the element of risk, would be useful for both host countries and countries sending personnel. In that regard, Japan preferred alternative C, which was clearer and better incorporated the elements of risk through its use of more precise language. Nevertheless, Japan was ready to consider any proposal aimed at further refining the language and looked forward to continued discussion of the matter.

56. The role of the United Nations in addressing conflicts throughout the world was more important than ever. Threats to United Nations personnel were increasing, as demonstrated by the terrorist attack against the Organization's Office in Baghdad on 19 August 2003. His Government attached great importance to ensuring the safety of United Nations and associated personnel under the Convention and, accordingly, expanding the scope of legal protection by means of a legal instrument to cover certain United Nations operations other than peacekeeping operations

without requiring a declaration of exceptional risk. Lastly, it was important for more countries to become parties to the Convention; States parties currently numbered 76.

57. **Mr. Hmoud** (Jordan) recalled that during the past three years the United Nations had taken various measures to improve legal protection for United Nations and associated personnel. The General Assembly had adopted several resolutions, including resolution 58/82, which defined short- and long-term measures that could be taken to strengthen legal protection for personnel participating in United Nations operations. For its part, the Security Council had adopted resolution 1502 (2003), in which it expressed its determination to issue, under appropriate circumstances, a declaration of exceptional risk for the purposes of applying the 1994 Convention on the Safety of United Nations and Associated Personnel. In addition the resolution invited the Secretary-General, when he deemed it to be justified, to advise the relevant United Nations body that it should make such a declaration. Nevertheless, in his report (A/59/226), the Secretary-General continued to express reservations with regard to recommending such a declaration for a number of political, logistical or circumstantial reasons. He further indicated that on the sole occasion that he had advised the General Assembly to declare the existence of an exceptional risk, the Assembly had not acted on his advice.

58. It was therefore perfectly clear that there was a problem regarding implementation of the mechanism provided for in article 1, paragraph (c) (ii), of the 1994 Convention. While attacks against personnel taking part in United Nations operations were increasing, it seemed as though the legal protection regime in force was insufficient and that it was necessary to enlarge its scope to cover operations that carried a specific risk. In that connection, Jordan had submitted a proposal regarding various ways of strengthening such protection. His Government was also aware that to ensure the universal accession which the 1994 Convention had so far failed to achieve, the legal instrument would have be drafted taking into account host country concerns, in particular those relating to the right to exercise criminal jurisdiction over members of a United Nations operation who, in the exercise of their functions, violated its domestic law. It was to be hoped that such a major impediment to the universality of the Convention could be treated in a constructive manner in the draft instrument enlarging the scope of protection.

59. He thanked the Chairman of the Working Group for drafting a text that could serve as the basis of negotiations and that had been approved by consensus for use as the basis of future work. In addition, the definition of the relationship between international humanitarian law and the 1994 Convention was important and should be studied by the Ad Hoc Committee. Jordan, for its part, was prepared to cooperate with all parties involved to advance the negotiations aimed at the adoption of a protocol to enlarge the scope of legal protection to cover the relevant United Nations operations.

60. **Mr. Aileene** (New Zealand) paid tribute to United Nations and associated personnel for their courage and commitment to the Organization's work of strengthening and maintaining peace and delivering assistance to those in need. It was of deep concern that the dangers faced by personnel in the field had increased dramatically over the past decade. There was no doubt that the threat to United Nations personnel was real, and Member States must do everything in their power to address it. Any attack on the Organization's personnel was an attack on the effectiveness and the very purposes of the Organization itself. The situation therefore required action on several fronts.

61. New Zealand supported the work of the members of the Fifth Committee, who were currently focusing on the urgent need to strengthen the security arrangements for United Nations operations in the field, including substantial organizational reform. Legal measures, too, played an important role in ensuring that personnel were adequately protected and that those who committed crimes against them were brought to justice. In that regard, it was essential that the international legal regime should offer the highest possible standard of protection for United Nations and associated personnel. New Zealand joined the Secretary-General in calling for all States to become parties to the 1994 Convention on the Safety of United Nations and Associated Personnel. In addition, it was prepared to work with all States to conclude a new optional protocol to the Convention, which would improve and extend the scope of legal protection for United Nations and associated personnel.

62. Discussions held during the recent meeting of the Committee's Working Group had been encouraging.

His delegation welcomed the Group's recommendation to use the Chairman's text as the basis of future work. It was nonetheless clear from the draft text that differences of opinion remained with regard to certain issues. New Zealand was ready to focus on those differences in the coming months so that an optional protocol expanding the scope of application of the 1994 Convention could be adopted without delay.

63. **Ms. Ramos Rodríguez** (Cuba) said that her delegation firmly condemned all attacks against United Nations and associated personnel. Such attacks were unjustified and constituted an offence that should be severely punished by law in all States. Although Cuba was not a party to the Convention on the Safety of United Nations and Associated Personnel, of 1994, its legislation penalized acts, assaults and attacks against internationally protected persons.

64. Her delegation continued to believe that the best way of strengthening protection for United Nations and associated personnel was to apply the Convention and ensure that its principles were based on international law. It was above all the responsibility of States parties to the Convention, pursuant to its article 23 and to the Vienna Convention on the Law of Treaties, to review its application and shortcomings, as well as proposals concerning its amendment or the adoption of a related instrument.

65. In spite of the foregoing, her delegation had participated constructively in the work of the Ad Hoc Committee and the Working Group and wished to highlight a few points that it considered important: Cuba believed that extending the scope of application of the Convention to all types of United Nations operations or "presences" was not desirable, for fear of upsetting the balance of the existing legal regime or imposing too heavy a burden on host States; any expansion of the scope of application should clearly reflect the element of risk, and "exceptional risk" should be distinguished from "situation of exceptional risk". It would be useful to consider the types of United Nations operations which by their nature carried an exceptional risk and to which the Convention, as revised, would apply in relation to the rules of international humanitarian law; the delicate balance of the Convention must not be disturbed, should a protocol be added. Lastly, it would be useful to study the reasons why certain States were prevented from acceding to the Convention before studying proposals which reflected the interests of certain delegations. Any attempt to amend the Convention without taking the above points into account ran the risk of being counterproductive and thus impeding new ratifications.

66. Her delegation recalled that the safety of United Nations and associated personnel depended also upon such personnel discharging their functions in an impartial manner, in conformity with international law and the principles set out in the Charter of the United Nations, and the laws, cultures and national character of host countries.

67. **Mr. Padukkage** (Sri Lanka) said that over the years, the number and gravity of deliberate attacks against humanitarian personnel had been increasing, with locally recruited staff becoming particularly vulnerable. Accordingly, the protection obligations of the United Nations were becoming increasingly challenging and complex. Sri Lanka unreservedly condemned those attacks and joined the international community in urging that those responsible should be brought to justice. It was the responsibility of Member States to provide protection to United Nations and associated personnel engaged in risky missions.

68. The scope of the 1994 Convention on the Safety of United Nations and Associated Personnel, to which Sri Lanka had become a party in 2003 and to whose effective implementation it was committed, should be broadened to cover certain types of United Nations operations other than peacekeeping. There were gaps to be addressed in the Convention because of the range of operations that had not been envisaged when the Convention had been concluded and because of the increasing threats to the safety of United Nations and associated personnel engaged in different types of risky operations. Notably, the "exceptional risk" element contained in the Convention had not been defined. As the Secretary-General indicated in document A/59/226, no declaration of risk had so far been made, even though certain United Nations operations were indeed very risky. Nor were there generally accepted criteria that the Security Council could use to determine situations of exceptional risk to which the Convention would apply. Such application would become even more complex in operations involving both combatants and United Nations personnel.

69. From that angle, the challenge facing the Working Group would be to incorporate the range of operations in which United Nations and associated personnel were currently engaged while reflecting, in

an appropriate manner, the notion of risk. In that regard, the notions of "emergency" or "special assistance" situations would require further discussion. His delegation also viewed the Costa Rican proposal on the relationship between the Convention and international humanitarian law as highly relevant and worth considering. The Ad Hoc Committee should work to close the gaps in the 1994 Convention, using its Chairman's text as a good basis for further negotiations. However, the concerns of all delegations should be taken into account in the process and the discussions should continue in a spirit of compromise, with care taken to ensure that the setting up of a new legal regime did not disturb the integrity of the one which currently existed.

70. **Mr. Rosand** (United States) said that his Government continued to support the 1994 Convention and hoped to be in a position to ratify it soon. The United States was conscious of the risks faced by United Nations and associated personnel in a variety of contexts around the world and appreciated the bravery, dedication and sacrifice of those men and women who participated in such operations on behalf of the United Nations.

71. With respect to the discussion in the Ad Hoc Committee during the spring of 2004 and in the Working Group, more recently, about extending the application of the Convention to a broader set of United Nations operations, his delegation continued to be generally supportive of that approach. The United States believed that a stand-alone protocol could be concluded and that the discussions in the Working Group had provided a useful and productive review of the Chairman's draft text.

72. The United States also believed that more work had to be done to increase the number of parties to the Convention. To make any progress, however, the concerns of current and future host countries would have to be identified and assuaged without eroding the protections offered to United Nations and associated personnel.

73. **Mr. Jian** (China) said that his Government had completed the domestic legislative procedure required to accede to the Convention and had deposited its instrument of ratification with the Secretary-General during the year. China was committed to fulfilling its treaty obligations in good faith and stood ready to work with other countries to ensure the safety of personnel taking part in United Nations operations.

74. The reality was that the security situation of such personnel was steadily worsening and casualties among them were mounting. The Chinese delegation therefore supported the adoption of further measures to enhance protection of the safety of United Nations and associated personnel. It was gratified by the important progress made at the recently concluded session of the Working Group, which had agreed to use the draft text prepared by its Chairman as a basis for its future work. More delegations would now have to comment on that text so that the draft protocol could be negotiated on the basis of consensus. It was encouraging that at the current session of the Working Group, the idea of broadening the scope of protection offered to United Nations and associated personnel had secured unanimous support.

75. China's principled position on the scope of application of the optional protocol was that the risk element should be the basic condition for the applicability of the protocol, not only because that would facilitate the early conclusion of the work, but also because it would give expression to the imperative of protecting personnel taking part in United Nations operations. More countries, particularly those hosting United Nations operations, would consequently find it more attractive to become parties to the protocol. It was to be hoped that the protocol would strike a delicate balance between the rights and obligations of States parties. Some States had adopted a constructive approach in that regard and, in the same spirit, China stood ready to participate in the consultations with a view to producing a draft text acceptable to all.

76. **Ms. Ahn** (Republic of Korea) expressed appreciation to the Chairman of the Ad Hoc Committee and the Working Group on the Scope of Legal Protection under the Convention on the Safety of United Nations and Associated Personnel for the text he had drafted to facilitate the deliberations; her thanks also went to those countries which had submitted proposals. During the Working Group meeting, her delegation had supported China's proposed alternative B with the caveat that certain risky situations which did not quite rise to the level of armed conflict should also be covered. Her delegation would submit appropriate wording to that end, because it supported extension of the scope of application of the Convention to cover inherently risky situations that were not

amenable to a declaration of exceptional risk, and would fully cooperate in working out an optional additional protocol.

77. The Republic of Korea was also grateful to the Costa Rican delegation for its proposal on the relationship between the 1994 Convention and international humanitarian law, which it would study carefully. The two were not mutually exclusive, and where the demarcation line was not very clear, there were situations to which both regimes could and should apply. The law of armed conflict did not impose the same level of obligations on the parties to a conflict to take measures to ensure the safety of United Nations and associated personnel because attacking and being attacked by adversaries was to be expected during hostilities. In certain instances, the 1994 Convention better protected United Nations and associated personnel from crimes of intentional murder and provided for the punishment of perpetrators. The problems that the Costa Rican proposal sought to address, however, were understandable.

78. As for the declaration of exceptional risk, her delegation urged the General Assembly and the Security Council to endeavour to issue timely declarations where warranted. The practical and speedy use of the declaration mechanism might well obviate the need to expand the scope of protection offered by the 1994 Convention to a level that impeded the attainment of universal accession to the Convention.

79. **Mr. Chowdhury** (Bangladesh) said that as a State party, Bangladesh was deeply committed to the provisions of the 1994 Convention. He noted with satisfaction that the core provisions of the Convention had been included in a growing number of status-of-forces and status-of-mission agreements. Obtaining universal acceptance of the Convention would be a good way to extend the scope of its application. Bangladesh was closely involved in United Nations peacekeeping operations and had consistently been among the major troop contributors. Bangladeshi peacekeepers had been deployed in conflict zones all over the world. Member States must act together to ensure the security of United Nations and associated personnel, and the first step would be to ratify or accede to the Convention.

80. His delegation had taken note of the reports of the Ad Hoc Committee and the Working Group on the Scope of Legal Protection under the Convention and hoped that, by keeping the collective interest in view, the Sixth Committee would be able to determine the best alternative by consensus concerning article II in the light of the text drafted by the Chairman. His delegation would extend its fullest cooperation in pursuit of that goal.

81. **Ms. Nyirinkindi** (Uganda) pointed out that almost every year there was an increase in attacks against United Nations personnel and the civilians working alongside them in the service of the Organization. What was even more appalling was that often the competent authorities did nothing by way of investigating those crimes and punishing the perpetrators. For that reason, she had noted with appreciation in the Secretary-General's report (A/59/226) information about additional measures that had been taken to strengthen the security of locally recruited personnel who remained vulnerable to attacks. The report also stressed the need to incorporate key provisions of the Convention into status-of-forces and status-of-mission agreements in all cases where host countries were not signatories to the Convention.

82. That underscored Uganda's support for measures to expand the scope of the Convention, and its readiness to work on the basis of the Chairman's proposal, even as it continued to agree with those delegations which advocated the importance of securing more universal accession to the Convention itself. The two objectives were not mutually exclusive. For Uganda, the Chairman's text was a very progressive option in that it catered for a growing number of non-peacekeeping operations conducted by the United Nations and thus covered the lacunae found in the Convention. The Committee should not limit itself to short-term measures; furthermore, the proposal did not undermine the integrity of the Convention. That, however, did not mean reinstating the need for a declaration of exceptional risk. In Uganda's view, such a declaration would be unnecessary. Rather, what should be retained was the idea of a situation entailing exceptional risk, and that distinction was important.

83. In conclusion, she expressed the hope that, while refraining from burdening States with obligations that might not be easy to fulfil, it would be possible to afford United Nations and associated personnel the most comprehensive protection possible.

The meeting rose at 6 p.m.